

(b) *Electronic resources.* Certain USTR records, including press releases and other public issuances, are available electronically from USTR's homepage at <http://www.ustr.gov>. USTR encourages requesters to visit its Web site before making a request for records under § 2004.6.

§ 2004.6 Requesting records.

(a) *Written requests required.* For records not available as described under § 2004.5, requesters wishing to obtain information from USTR must submit a written request to USTR's FOIA Officer. Requests should be addressed to FOIA Officer, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. As there may be delays in mail delivery, it is advisable to send request via facsimile to (202) 395-9458.

(b) *Contents of requests.* Requests shall be as specific as possible and shall reasonably describe the records sought so that the records can be located with a reasonable amount of effort. The request should identify the desired record or reasonably describe it and should include information such as the date, title or name, author, recipient, and subject matter of the record.

(c) *Response to requests—(1) Processing.* The FOIA Officer shall ordinarily determine within 20 days (except Saturdays, Sundays, and federal holidays) after receiving a request for records, whether it is appropriate to grant or deny the request. The 20-day period may be tolled one time if the FOIA Officer requests information from the requester or if additional time is necessary to clarify issues with the requester regarding a fee assessment.

(i) *Request granted.* If the FOIA Officer decides to grant the request, the FOIA Officer shall promptly provide the requester written notice of the decision. The FOIA Officer shall normally include with the notice both the requested records and a copy of the decision.

(ii) *Request denied.* If the FOIA Officer denies the request, in full or part, the FOIA Officer shall provide the requester written notice of the denial together with the approximate number of pages of information withheld and the exemption under which the informa-

tion was withheld. The notice shall also describe the procedure for filing an appeal.

(2)(i) *Expedited processing.* At the time a requester submits an initial request for records the requester may ask the FOIA Officer in writing to expedite processing of the request. The request for expedited processing must be accompanied by a written statement, true and correct to the best of the requester's knowledge and belief, explaining why expedited processing is warranted. The FOIA Officer shall generally grant requests for expedited processing of requests for records, and appeals of denials under paragraph (d)(2) of this section, whenever the FOIA Officer determines that:

(A) Failure to obtain the requested records on an expedited basis could reasonably pose an imminent threat to a person's life or physical safety; or

(B) With respect to a request made by a person primarily engaged in disseminating information, there is an urgency to inform the public about government activity that is the specific subject of the FOIA request.

(ii) The FOIA Officer shall ordinarily decide within ten days after receiving a request for expedited processing whether to grant it and shall notify the requester of the decision. If the FOIA Officer grants a request for expedited processing, the FOIA Officer shall process the request as soon as practicable. If the FOIA Officer denies a request for expedited processing, USTR shall act expeditiously on any appeal of the denial.

(3) *Extension for unusual circumstances—(i) In general.* If the FOIA Officer determines that unusual circumstances exist, the FOIA Officer may extend for no more than ten days (except Saturdays, Sundays, and Federal holidays) the time limits described in paragraph (c)(1) of this section by providing written notice of the extension to the requester. The FOIA Officer shall include with the notice a brief statement of the reason for the extension and the date the FOIA Officer expects to make the determination.

(ii) *Additional procedures.* The FOIA Officer shall provide written notice to the requester if the FOIA Officer decides that the determination cannot be

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made within the time limit described in paragraph (c)(3)(i) of this section. The notice shall afford the requester an opportunity to limit the scope of the request to the extent necessary for the FOIA Officer to process it within that time limit or an opportunity to arrange a longer period for processing the request.

(d) *Appeals*—(1) *Initiating appeals*. Requesters not satisfied with the FOIA Officer's written decision may request USTR's FOIA Appeals Committee to review the decision. Appeals must be delivered in writing within 60 days of the date of the decision and shall be addressed to the FOIA Appeals Committee, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. As there may be delays in mail delivery, it is advisable to FAX appeals to (202) 395-9458. An appeal shall include a statement specifying the records that are the subject of the appeal and explaining why the Committee should sustain the appeal.

(2) *Appeal decisions*. The Committee shall ordinarily decide the appeal within 20 working days from the date it receives the appeal. If the Committee denies the appeal in full or part, the Committee shall promptly notify the requester in writing of the Committee's decision and the provisions for judicial review. If the Committee sustains the appeal, the FOIA Officer shall notify the requester in writing and shall make available to the requester copies of the releasable records once the requester pays any fees that USTR assesses under §§ 2004.8 through 2004.10.

COSTS

§ 2004.7 Definitions.

For purposes of these regulations:

(a) *Commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers the requester's or other person's commercial, trade, or profit interests.

(b) *Direct costs* means those costs incurred in searching for and duplicating (and, in the case of commercial use requests, reviewing) documents to respond to a FOIA request. Direct costs include, for example, salaries of em-

ployees who perform the work and costs of conducting large-scale computer searches.

(c) *Duplicate* means to copy records to respond to a FOIA request. Copies can take the form of paper, audio-visual materials, or electronic records, among others.

(d) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, that operates a program or programs of scholarly research.

(e) *Non-commercial scientific institution* means an institution that is not operated on a commercial basis and that operates solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(f) *Representative of the news media* means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

(g) *Review* means to examine a record to determine whether any portion of the record may be withheld and to process a record for disclosure, including by redacting it.

(h) *Search for* means look for and retrieve records covered by a FOIA request, including by looking page-by-page or line-by-line to identify responsive material within individual records.

§ 2004.8 Fees in general.

USTR shall charge fees that recoup the full allowable direct costs it incurs in responding to FOIA requests. USTR may assess charges for time spent searching for records even if USTR fails to locate the records or if the records are located and determined to be exempt from disclosure. In general, USTR shall apply the following fee schedule, subject to §§ 2004.9 through 2004.11:

(a) *Manual searches*. Time devoted to manual searches shall be charged on